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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/786,098 | 02/05/2003 | Julio Bragagnolo | F 6863 | 8490 |

7590 05/26/2005
Jordan and Hamburg
122 East 42nd Street
New York, NY 10168

EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/786,098 | Applicant(s) BRAGAGNOLO ET AL. | |
| | Examiner Phi D A | Art Unit 3637 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-10, 22-25 and 27-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-21 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/28/01</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Applicant's election with traverse of claims 11-21, 26 in the reply filed on 3/9/05 is acknowledged. The traversal is on the ground(s) that there is no lack of unity of invention as set forth by PCT rules 13.1 and 13.2. This is not found persuasive because the inventions are to different inventive concepts. The independent claims are separately applicable to the different inventive concepts. The supporting element claimed in the group I is not sufficiently specific as to clearly set forth the product of group II. Thus, the groups are lacking in unity.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Klope (4621472).

Klope (figure 1) shows a panel support element having engagement means, each panel support element including support means, the engagement means for securing adjacent panel support elements, a first elongate member (14), having a length 2L, two transversely oriented elongate members (18) each having a length L being symmetrically disposed about the center of the first elongate member, the transversely oriented elongate members are located midway between the center and either end of the first elongate member, hinge means being provided at each end of the transverse elongate member (the ends of part 18), each of the hinge means being configured to cooperate with a hinge bracket provided on the reverse side of the respective panel

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(inherently capable of doing so, also the bracket is not claimed), the elongate members having a substantially constant cross section along the length, a plurality of fastener elements being provided, the fasteners being in the form of an elongate metal strap (35, figure 1, the part where screws 30 go through), the fastener elements being provided with preformed holes (where screw 30 go through), an attachment clip (87, figure 2) which cooperates with the cross shape of the members of the panel support element, to clip onto the support element, the attachment clip being provided with a plurality of holes to allow adjustable connection of the fastener element by way of a screw or rivet (inherently capable of doing so), the holes in the clip differ in pitch when compared with those of the fastener strap, the attachment clip being slidably engaged with the respective member of the support element (inherently so when assembling), the engagement means(20) comprising bracket elements of a predetermined length defining mating means for engaging with corresponding mating means at a predetermined location at or adjacent each end of the members of the panel support element, the corresponding mating means including a pair of detents (the gap and the its protruding structure) adjacent each end of the first elongate member and the two transverse elongate member.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12-21, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klope (4621472) in view of McMaster et al (5125608).

Kloke shows all the claimed limitations except for the two transversely elongate members each having a length L.

McMaster et al shows two transversely elongate members (34) each having a length L symmetrically disposed about the center of the first elongate member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Kloke to show the two transversely elongate members each having a length L as taught by McMaster et al because it would have been a matter of engineering design choice to have the transverse members each of a length L since such a modification would have involved a change in the size of a component; a change in size is generally recognized as being the level of one of ordinary skill in the art, *In re Rose*, 105 USPQ 237 (CCPA 1955).

Conclusion

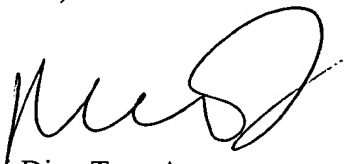
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different support element designs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Phi Dieu Tran A', with a large, stylized loop at the end.

Phi Dieu Tran A

5/24/05